



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2012 REGULAR SESSION

HOUSE BILL NO. 402

WEDNESDAY, FEBRUARY 29, 2012

The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED
DATE April 11, 2012
8:43 am
ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Kim Perry

1 AN ACT relating to interagency cooperation.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 11A.080 is amended to read as follows:

4 (1) (a) Upon a complaint signed under penalty of perjury by any person, or upon its
5 own motion, the commission shall conduct a preliminary investigation of any
6 alleged violation of this chapter.

7 (b) The preliminary investigation shall begin not later than ten (10) days after the
8 next commission meeting following the receipt of the sworn complaint, or, if
9 the investigation is initiated by the commission's own motion, not later than
10 ten (10) days after the date of the adoption of the motion.

11 (c) Within ten (10) days of the commencement of the preliminary investigation,
12 the commission shall forward a copy of the complaint, if one has been filed, or
13 a statement of possible violations being investigated, and a general statement
14 of the applicable law to the person alleged to have committed a violation.

15 (2) All commission proceedings and records relating to a preliminary investigation
16 shall be confidential until a final determination is made by the commission, except:

17 (a) The commission may turn over to the Attorney General, the United States
18 Attorney, or the Commonwealth's Attorney of the jurisdiction in which the
19 offense allegedly occurred, evidence which may be used in criminal
20 proceedings, or, at its discretion, may at any time turn over to the Personnel
21 Board or the Auditor of Public Accounts, or both, evidence which may be
22 used by either or both of those agencies for investigative purposes;

23 (b) If the alleged violator publicly discloses the existence of a preliminary
24 investigation, the commission may publicly confirm the existence of the
25 inquiry and, in its discretion, make public any documents which were issued
26 to either party;

27 (c) If the matter being investigated was referred to the commission from another

1 state agency, the commission may inform the referring state agency of the
 2 status of any preliminary investigation and of any action taken on the matter.

3 (3) If the commission determines in the preliminary investigation that the facts are not
 4 sufficient to constitute a violation of this chapter, the commission shall immediately
 5 terminate the investigation and notify in writing the complainant, if any, and the
 6 person alleged to have committed a violation. The commission may confidentially
 7 inform the alleged violator of potential violations and provide information to ensure
 8 future compliance with the law. If the alleged violator publicly discloses the
 9 existence of such action by the commission, the commission may confirm the
 10 existence of the resolution and, in its discretion, make public any documents which
 11 were issued to the alleged violator.

12 (4) If the commission, during the course of the preliminary investigation, finds probable
 13 cause to believe that a violation of this chapter has occurred, the commission may,
 14 upon majority vote:

15 (a) Due to mitigating circumstances such as lack of significant economic
 16 advantage or gain by the alleged violator, lack of significant economic loss to
 17 the state, or lack of significant impact on public confidence in government, in
 18 writing, confidentially reprimand the alleged violator for potential violations
 19 of the law and provide a copy of the reprimand to the alleged violator's
 20 appointing authority, if any. If the alleged violator publicly discloses the
 21 existence of such an action, the commission may confirm the existence of the
 22 action and, in its discretion, make public any documents which were issued to
 23 the alleged violator; or

24 (b) Initiate an administrative proceeding to determine whether there has been a
 25 violation.

26 ➔Section 2. KRS 61.102 is amended to read as follows:

27 (1) No employer shall subject to reprisal, or directly or indirectly use, or threaten to use,

1 any official authority or influence, in any manner whatsoever, which tends to
2 discourage, restrain, depress, dissuade, deter, prevent, interfere with, coerce, or
3 discriminate against any employee who in good faith reports, discloses, divulges, or
4 otherwise brings to the attention of the Kentucky Legislative Ethics Commission,
5 the Attorney General, the Auditor of Public Accounts, the Executive Branch Ethics
6 Commission, the General Assembly of the Commonwealth of Kentucky or any of
7 its members or employees, the Legislative Research Commission or any of its
8 committees, members or employees, the judiciary or any member or employee of
9 the judiciary, any law enforcement agency or its employees, or any other appropriate
10 body or authority, any facts or information relative to an actual or suspected
11 violation of any law, statute, executive order, administrative regulation, mandate,
12 rule, or ordinance of the United States, the Commonwealth of Kentucky, or any of
13 its political subdivisions, or any facts or information relative to actual or suspected
14 mismanagement, waste, fraud, abuse of authority, or a substantial and specific
15 danger to public health or safety. No employer shall require any employee to give
16 notice prior to making such a report, disclosure, or divulgence.

17 (2) No employer shall subject to reprisal or discriminate against, or use any official
18 authority or influence to cause reprisal or discrimination by others against, any
19 person who supports, aids, or substantiates any employee who makes public any
20 wrongdoing set forth in subsection (1) of this section.

21 (3) This section shall not be construed as:

22 (a) Prohibiting an employer from requiring that an employee inform him of an
23 official request made to an agency for information, or the substance of
24 testimony made, or to be made, by the employee to legislators on behalf of an
25 agency;

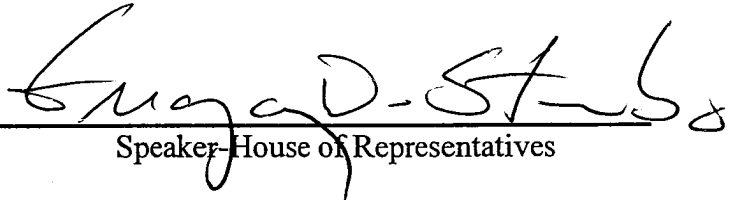
26 (b) Permitting the employee to leave his or her assigned work area during normal
27 work hours without following applicable law, administrative regulations,

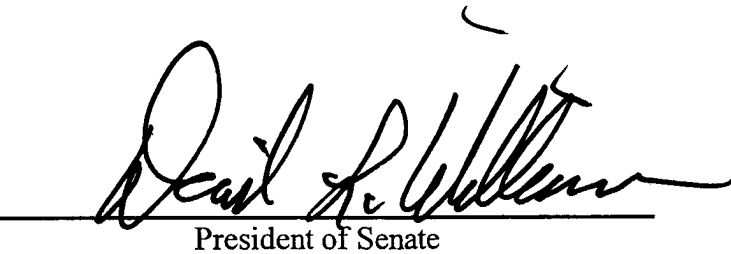
1 rules, or policies pertaining to leave, unless the employee is requested by the
2 Kentucky Legislative Ethics Commission or the Executive Branch Ethics
3 Commission to appear before the commission, or by a legislator or a
4 legislative committee to appear before a legislative committee;


5 (c) Authorizing an employee to represent his or her personal opinions as the
6 opinions of his or her employer; or

7 (d) Prohibiting disciplinary or punitive action if an employee discloses
8 information which he knows:

- 9 1. To be false or which he discloses with reckless disregard for its truth or
10 falsity;
- 11 2. To be exempt from required disclosure under the provisions of KRS
12 61.870 to 61.884; or
- 13 3. Is confidential under any other provision of law.


Speaker House of Representatives


President of Senate

Attest: 
Chief Clerk of House of Representatives

Approved 
Governor

Date 4-11-12